

REMARKS

Claims 1, 8-9, 14 and 20 have been canceled. Claims 2-5, 10-13, and 15-19 remain pending in the instant application.

Claims 2, 4-5, and 10-13, have been amended to make them dependent upon independent Claim 17. Similarly the preamble of Claim 3, which is dependant upon Claim 2, has been amended from "lotion" to "pop-up dispensing system".

Claims 15-16 have been amended to make them dependent upon Claim 18.

Claim 17 has been amended to include a lower limit for the amount of water present in the lotion. Support for this amendment may be found in canceled Claims 8 and 9. Claim 17 has also been amended to incorporate in to the limitations of canceled Claim 20, that is, the pre-moistened wipes are stacked, folded and interleaved in a substantially interfolded z-fold pattern. Finally, Claim 17 has been amended to require that each of the pre-moistened wipes "has a leading edge panel having a length of from about 2 cm to about 7 cm, a central panel having a length of from about 3 cm to about 12 cm, and a trailing edge panel having a length of from about 2 cm to about 7 cm". Support for this amendment may be found at page 8, lines 20-38 of the specification.

No new matter has been added and no additional claim fee is due. Claims 2-5, 10-13, and 15-19 remain pending. Entry of this Amendment is respectively requested.

Lastly, in the response filed December 17, 2001 Applicants canceled Claims 6 and 7 without prejudice. However, the Final Office Action of June 26, 2002 is directed to Claims 1-20 and make no mention of Applicants cancellation of Claims 6 and 7. Does this mean that the Applicants amendment canceling these claims has not been entered? Clarification on this matter would be appreciated, so these claims in question may be canceled without prejudice.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made".

Rejections Under 35 USC §1031) Luu

Claims 1-16 have been rejected under 35 U.S.C. §103 as being obvious over Luu et al., US Patent No 5,871,763. It is contended in the Final Office Action that the claimed pre-moistened wipes are obvious in light of what is taught by Luu. Applicants respectively traverse the rejection.

Applicants have canceled independent Claims 1 and 14 and dependent Claims 8-9. Claims 2-5, 10-13, and 15-16 have all been amended to make them ultimately depend upon Claim 17. Furthermore, as noted in the remarks above, Applicants canceled Claims 6 and 7 in a prior response. Consequently, the rejection raised in the Final Office Action is moot, and withdrawal of the rejection is respectfully requested.

In light of the foregoing remarks, it is requested that rejection of Claims 1-16 be reconsidered and withdrawn.

2) Coury and Luu

Claims 1-16 have been rejected under 35 U.S.C. §103 as being obvious over Luu et al., US Patent No 5,871,763 and Coury et. al., US Patent No 5,618,850. It is contended in the Final Office Action that the claimed pre-moistened wipes are obvious in light of what is taught by Luu and Coury. Applicants respectively traverse the rejection.

Applicants have canceled independent Claims 1 and 14 and dependent Claims 8-9. Claims 2-5, 10-13, and 15-16 have all been amended to make them ultimately depend upon Claim 17. Furthermore, as noted in the remarks above Applicants canceled Claims 6 and 7 in a prior response. Consequently, the rejection raised in the Final Office Action is moot, and withdrawal of the rejection is respectfully requested.

In light of the foregoing remarks, it is requested that rejection of Claims 1-16 be reconsidered and withdrawn.

3) Luu in view of Blieszner

Claims 8 and 9 are rejected under 35 U.S.C. §103(a) as being obvious over Luu et al., US Patent No 5,871,763 in view of Blieszner et al., US Patent No

5,648,083. It is contended in the Final Office Action that the claimed pre-moistened wipes are obvious in light of what is taught by Luu in view of Blieszner. Applicants respectively traverse the rejection.

As noted previously, Applicants have canceled Claims 8-9. Consequently, the rejection raised in the Final Office Action is moot, and withdrawal of the rejection is respectfully requested.

In light of the foregoing remarks, it is requested that rejection of Claims 8-9 be reconsidered and withdrawn.

4) Luu in view of Muckenfuhs

Claims 12-20 are rejected under 35 U.S.C. §103 as being obvious over Luu et al., US Patent No 5,871,763 in view of Muckenfuhs, US Patent No 5, 332,118. It is contended in the Final Office Action that the claimed pre-moistened wipes are obvious in light of what is taught by Luu in view of Muckenfuhs. Applicants respectively traverse the rejection.

As noted previously, Applicants have canceled independent Claim 14 and dependent Claim 19. Claims 12-13, and 15-16 have all been amended to make them ultimately depend upon Claim 17. Furthermore, Claim 17 has been amended to include the additional limitations, of a lower limit to the water content in the lotion, that the pre-moistened wipes are stacked, folded and interleaved in a substantially interfolded z-fold pattern, and that each of the pre-moistened wipes "has a leading edge panel having a length of from about 2 cm to about 7 cm, a central panel having a length of from about 3 cm to about 12 cm, and a trailing edge panel having a length of from about 2 cm to about 7 cm".

The first additional limitation is that the lotion includes at least about 90% by weight of water. The Final Office Action notes that "Luu is silent as to percent by weight of water content in the lotion composition" and "Muckenfuhs is relied upon solely for the teaching of an improved pop-up wipes dispenser with modified Z-fold stack configuration". See Final Office Action paragraph 3, lines 3-4 and page 8 lines 14-15. In view of these admissions in the Final Office Action, this limitation is not

present in the combination of Luu in view of Muckenfuhs and the rejection should be withdrawn.

Furthermore, in addition to the unobvious limitation that lotion includes at least about 90% by weight of water, Claim 17 has been further amended to include the limitation that each of the pre-moistened wipes "has a leading edge panel having a length of from about 2 cm to about 7 cm, a central panel having a length of from about 3 cm to about 12 cm, and a trailing edge panel having a length of from about 2 cm to about 7 cm". There is no teaching, suggestion or motivation in either Luu or Muckenfuhs or any possible combination thereof of this additional limitation. Furthermore there is nothing suggested, taught or any motivation that would lead one of ordinary skill to arrive at this additional limitation.

It is well known that any obviousness objections based on a combination of prior art references, such as in the present situation, there must provide some teaching, suggestion, or motivation to combine the references. See In re Rouffet 149 F.3d 1350, 47 USPQ2d 1453 (Fed. Cir. 1998). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. See MPEP 2143.01; In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990); and In re Fritch, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992). There is no such teaching, suggestion, or motivation to combine any of the references in the present situation. Muckenfuhs provides no motivation for one of ordinary skill to combine its teaching with that of Luu. There is no reason why one of ordinary skill would select the lotion of Luu out of the literally millions of possible lotions.

Furthermore, there is no reason why one of ordinary skill would want to modify either of Luu or Muckenfuhs and then combine them to arrive at Applicants invention as now claimed. The Final Office Action is attempting to use the "obvious to try" standard which has been consistently held improper. It is well settled that the question of obviousness under 35 U.S.C. §103 is not what the artisan could have done, but rather what would have been obvious for such a person to do. See Orthokinetics, Inc. v. Safety Travel Chairs, Inc., 1 U.S.P.Q.2d 1081 (Fed. Cir. 1986), and In re Brouwer, 37 U.S.P.Q.2d 1663 (Fed. Cir. 1996). See also MPEP 2143.01;

In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In light of the amendments to the claims and the foregoing remarks, it is requested that rejection of Claims 12-20 be reconsidered and withdrawn.

Conclusion.

In light of the amendments and remarks presented herein, Applicants respectively submit that Claims 2-5, 10-13, and 15-19 are allowable over the prior art of record or any combination thereof. In the event that issue remain prior to allowance of the noted claims, then the Examiner is invited to call Applicant's undersigned agent to discuss any remaining issues.

Respectfully submitted,

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(7496RCRCE.doc amendment)



VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the claims:

Please cancel Claim 1 without prejudice.

Please amend Claims 2-5 as indicated

2.(Amended) The [lotion] pop-up dispensing system of Claim 17 wherein the phosphate-quaternary amine compound is selected from the group consisting of Coco Phosphatidyl PG-Dimonium Chloride, Cocamidopropyl Phosphatidyl PG-Dimonium Chloride, and Stearamidopropyl Phosphatidyl PG-Dimonium Chloride.

3.(Amended) The [lotion] pop-up dispensing system of Claim 2 wherein the lotion comprises less than about 3 percent by weight of the phosphate-quaternary amine compound.

4.(Amended) The [lotion] pop-up dispensing system of Claim 17 wherein the non-cellulosic organic water soluble polymer is selected from the group consisting of synthetic polymers.

5.(Amended) The [lotion] pop-up dispensing system of Claim 17 wherein the non-cellulosic organic water soluble polymer is in an effective amount of less than about 0.11 percent by weight.

Please cancel Claims 8-9 without prejudice.

Please amend Claims 10-13 as indicated.

10.(Twice Amended) The [lotion] pop-up dispensing system of Claim 17 further comprising an effective amount of a preservative.

11.(Twice Amended) The [lotion] pop-up dispensing system of Claim 17 further comprising an effective amount of a fragrance and an effective amount of a fragrance solubilizer.

12.(Twice Amended) The [lotion] pop-up dispensing system of Claim 17 further comprising a kerotolytic.

13.(Twice Amended) The [lotion] pop-up dispensing system of Claim 17 wherein the kerotolytic comprises allantoin.

Please cancel Claim 14 without prejudice.

Please amend Claims 15-16 as indicated.

15.(Amended) The [article] pop-up dispensing system of Claim 1[4]8 wherein the substrate is wetted with at least 1.0 gram of the lotion per gram of dry substrate weight.

16.(Amended) The [article] pop-up dispensing system of Claim 1[4]8 wherein the substrate is wetted with at least 2.0 gram of the lotion per gram of dry substrate weight.

Please amend Claim 17 as indicated

17.(Twice Amended) A pop-up dispensing system for reliable single dispensing of discreet pre-moistened wipes in consecutive order, the system characterized by:

(a) a container having an interior portion and an aperture for drawing through the pre-moistened wet wipes in consecutive order;

(b) a plurality of the pre-moistened wipes, the wipes being stacked, folded and interleaved in a substantially interfolded z-fold pattern in the interior portion of the container;

wherein the pre-moistened wipes are wetted with a lotion, the lotion being an aqueous solution comprising at least about 90% by weight water, a surfactant selected from the group consisting of phosphate-quaternary amine compounds and non-ionic surfactants, and effective amounts of a second ingredient selected from the group consisting of non-cellulosic organic water soluble polymers and alkoxylated alcohols and wherein each of the pre-moistened wipes has a leading edge panel having a length of from about 2 cm to about 7 cm, a central panel having a length of from about 3 cm to about 12 cm, and a trailing edge panel having a length of from about 2 cm to about 7 cm.

Please cancel Claim 20 without prejudice.